

IC 20-3-14

Chapter 14. Annexation of Territory by or From Indianapolis Public Schools

IC 20-3-14-1

Definitions

Sec. 1. As used in this chapter, the following terms shall have the following meanings:

(a) "School corporation" shall be any public school corporation of the state located in whole or in part in a county containing a consolidated city.

(b) "School city" shall refer to any school corporation which at any time is a school city or school town or has succeeded to jurisdiction of all or the major part in area of a school city or school town.

(c) "Civil city" shall refer to any civil city or civil town, the area of which, or the major portion of the area of which, is under the jurisdiction of a school city.

(d) "Annex", "annexing", "annexation", and "school annexation" shall refer to any action whereby the boundaries of any school corporation are changed so that additional territory, constituting all or a part of any one or more other school corporations, is transferred to it.

(e) "Civil annexation" shall refer to any action whereby the civil boundaries of any civil city are extended.

(f) "Acquiring school corporation" shall be the school corporation which acquires territory as a result of annexation.

(g) "Losing school corporation" shall be any school corporation which loses territory to an acquiring school corporation by annexation.

(h) "Annexed territory" shall be the territory acquired by an acquiring school corporation as a result of annexation from a losing school corporation.

(i) "Resolution" of a school township shall refer to a resolution adopted by the trustee and a majority of the township board, and of any other school corporation shall refer to a resolution duly adopted by its governing body.

(Formerly: Acts 1961, c.186, s.1.) As amended by P.L.8-1987, SEC.40.

IC 20-3-14-2

Annexation authorized

Sec. 2. Subject to the limitations and procedure set out in this chapter, any school corporation may annex territory from any other school corporation by resolutions of the acquiring and losing school corporations as provided in section 3 of this chapter, and any school city may annex territory from any other school corporation by its single resolution as provided in section 4 of this chapter.

(Formerly: Acts 1961, c.186, s.2.) As amended by P.L.2-1988, SEC.452.

IC 20-3-14-3

Annexation by school corporations; procedure

Sec. 3. An annexation may be effected by any school corporation as follows:

(a) Both the acquiring and the losing school corporations shall each adopt a substantially identical annexation resolution. This resolution shall contain the following items:

(1) A description of the annexed territory. Such description shall as near as reasonably possible be by streets and other boundaries known by common names and need not be in addition by legal description unless such additional description is necessary to identify the annexed territory. No notice shall be defective if there is a good faith compliance with this section and if the area designated may be ascertained with reasonable certainty by persons skilled in the area of real estate description.

(2) The time the annexation takes place. This may vary with respect to the different parts of the annexed territory; and if the entire annexed territory is contiguous to the acquiring corporation the parts of the annexed territory may be annexed so that some parts may not be contiguous to the annexed territory for temporary periods.

(3) Any terms and conditions facilitating education of pupils in the annexed territory, in the losing school corporation, or in the acquiring school corporation. Such terms may provide for, but shall not be limited to, the continued attendance by children in the annexed territory at schools in the losing school corporation for specified periods of time after annexation on a transfer basis. In such instances transfer tuition for such children shall be paid by the acquiring school corporation to the losing school corporation in the manner and at the rates provided by the statutes of the state of Indiana governing the computation and payment of transfer tuition costs.

(4) Disposition of assets and liabilities of the losing school corporation to the acquiring school corporation; allocation between the acquiring and losing school corporations of subsequently collected school taxes levied on property in the annexed territory; and the amount, if any, to be paid by the acquiring school corporation to the losing school corporation on account of property received from the latter. Such disposition, allocation, and amount shall be equitable.

(b) After the adoption of such resolution, notice shall be given by publication in both the acquiring and the losing school corporations setting out the text of the resolution, together with a statement that such resolution had been adopted and that a right of remonstrance exists as provided in this chapter. It shall not be necessary to set out the remonstrance provisions of this chapter, but a general reference to a right of remonstrance with a reference to this chapter shall be sufficient. The annexation shall take effect within thirty (30) days after such publication, or at the time provided in the resolution, whichever is later, unless within such period a remonstrance (based

on a ground other than that set out in section 6(a)(5) of this chapter) is filed in the circuit or superior court of the county where the annexed territory or any part thereof is located, by registered voters residing in the losing school corporation at least equal in number to the greater of the following:

- (1) ten percent (10%) of the number of registered voters residing in the losing school corporation; or
- (2) fifty-one percent (51%) of the number of registered voters residing in the annexed territory.

(Formerly: Acts 1961, c.186, s.3.) As amended by P.L.2-1988, SEC.453.

IC 20-3-14-4

Annexation by school city; procedure

Sec. 4. An annexation may also be effected by any school city as follows:

(a) The acquiring school corporation shall adopt an annexation resolution of the type provided in section 3 of this chapter. Unless the losing corporation shall consent, such resolution shall not provide a time for annexation prior to the July 1 succeeding the May 1 next succeeding the last publication of the notice of annexation.

(b) After the adoption of such resolution, the acquiring school corporation shall give notice of the type provided in section 3 of this chapter by publication in the acquiring school corporation and in the losing school corporation. It shall also give notice to the losing school corporation prior to the last publication of notice therein. The annexation shall take effect thirty (30) days after the last such publication in the losing school corporation or at the time provided in such resolution, whichever is later, unless within such a period of remonstrance (based on a ground other than that set out in section 6(a)(5) of this chapter) is filed in the circuit or superior court of the county where the annexed territory or a part thereof is located, by the losing school corporation, by not less than a majority of the owners of land in the annexed territory, or by the owners of seventy-five percent (75%) or more in assessed valuation of the real estate in the annexed territory.

(c) For purposes of determining such ownership, the following rules shall apply:

- (1) Only the record title holder or holders of any single piece of property shall be an owner.
- (2) Where record title of any single piece of property is in more than one person, all of them together shall constitute only one (1) owner, and the remonstrance of any one (1) of them shall constitute the remonstrance of all, whether or not authorized by the others.

(Formerly: Acts 1961, c.186, s.4; Acts 1969, c.52, s.1.) As amended by P.L.2-1988, SEC.454.

IC 20-3-14-5

Notice requirements for IC 20-3-14-3 and IC 20-3-14-4

Sec. 5. (a) The notice by publication required by sections 3 and 4 of this chapter shall be made two (2) times a week apart in two (2) daily newspapers of general circulation, published in the English language and of general circulation in the acquiring school corporation and in the losing school corporation. Where there is only one (1) or no such daily newspaper in either such school corporation, a weekly newspaper or newspapers may be used. Where there is only one (1) such daily and/or weekly newspaper, publication in such paper shall be sufficient. Where any newspaper is of general circulation in both corporations, any publication in such newspaper shall qualify as one (1) of the required publications in each of the school corporations. Publication may be made jointly by the losing and acquiring school corporations. The remonstrance period shall run from the second such publication.

(b) Where notice is to be given by an acquiring to a losing school corporation, it may be made either by registered or certified United States mail, return receipt requested, addressed to the governing board of the losing school corporation at its established business office, or addressed to the township trustee in the case of a school township, or addressed to the superintendent of schools or any officer of the governing body of any other school corporation.
(Formerly: Acts 1961, c.186, s.5.) As amended by P.L.2-1988, SEC.455.

IC 20-3-14-6

Remonstrances under either IC 20-3-14-3 or IC 20-3-14-4; procedure

Sec. 6. (a) A remonstrance under either section 3 or section 4 of this chapter should be in substantially the following form:

The undersigned hereby remonstrate against the annexation of the following described territory situated in _____ County, Indiana, whereby it would be transferred from _____ (the losing corporation) to _____ (the acquiring corporation):

(Description of the annexed territory sufficient to identify it.)

The remonstrance may be filed in any number of counterparts. Each counterpart shall have attached to it the affidavit of the person circulating it that each signature appearing thereon was affixed in his presence and is the true and lawful signature of the person who made it. The person who makes such affidavit need not be one (1) of the persons who signs the counterpart to which it is attached. Such remonstrance shall be accompanied by a complaint filed by one (1) or more of the remonstrators (who shall be treated as a representative of the entire class of remonstrators), and signed by such remonstrator or his attorney, stating the reasons for the remonstrance. Such reasons shall be limited to the following:

- (1) There is a procedural defect in the manner in which the annexation is carried out which is jurisdictional.
- (2) The annexed territory does not form a compact area abutting the acquiring corporation.
- (3) The losing school corporation is left with no high school

facilities, or its enrollment after annexation will be less than one thousand (1,000) pupils; Provided, however, That such reasons for remonstrance shall not apply in a situation where the annexation includes all of the territory of the losing school corporation.

(4) The benefits to be derived from the annexation are outweighed by its detriments, taking into consideration the respective benefits and detriments to the schools and of the pupils residing in the acquiring school corporation, the losing school corporation, and the annexed territory.

(5) The disposition of assets and liabilities of the losing corporation, the allocation of school tax receipts between the two (2) school corporations, and the amount to be paid by the acquiring school corporation as set out in the annexation resolution are inequitable.

Except with respect to subdivision (1), such allegations may be made in the statutory language.

(b) The plaintiff in such suit shall be the person whose name appears on the complaint and may be the losing school corporation in a remonstrance under section 4 of this chapter. The defendants in a remonstrance under section 3 of this chapter shall be both the acquiring and the losing corporations; and in a remonstrance under section 4 of this chapter shall be the acquiring school corporation. Service of process shall be made on the defendants as in other civil actions.

(c) For the purposes of determining whether the petition was timely filed, the time of filing shall be the time of filing with the clerk without regard as to the time of issuance of the summons; where the thirtieth day falls on Sunday, a holiday, or any other day when the clerk's office is not open, the time shall be extended to the next day when such office is open.

(d) The issues in any remonstrance suit shall be made up by the complaint, the allegations thereof being deemed denied by each defendant. No responsive pleading need or may be filed except that any defendant may where appropriate file a motion to dismiss the suit on the ground:

- (1) that the requisite number of qualified remonstrators have not signed the petition;
- (2) that the remonstrance was not timely filed; or
- (3) that the complaint does not state a cause of action.

No responsive pleading to this motion need or may be filed. With respect to a motion under subdivisions (1) and (2), the allegations shall be deemed denied by the remonstrators. For purposes of determining whether there are the requisite number of qualified remonstrators, no person shall be entitled to withdraw his name after a remonstrance has been filed nor shall any person be entitled to add his name to such remonstrance. Any person may, however, at the trial of such cause and in support or derogation of the substantive matters in the complaint, introduce into evidence a verified statement that he wishes his name added to or withdrawn from the

remonstrance. The court may either hear all or a part of the matters raised by the motion to dismiss separately or may consolidate for trial all or a part of such matters with the matters relating to the substance of the case. No complaint shall be dismissed for failure to state a cause of action, if a fair reading of the complaint makes out one (1) of the grounds for remonstrance and suit provided in subsection (a). An amendment of the complaint may be permitted in the discretion of the court if it does not state a new ground of remonstrance.

(e) The trial of a remonstrance suit shall be conducted as other civil cases by the court without the intervention of a jury on the issues raised by the complaint and/or motion to dismiss. A change of venue from a judge, but no change of venue from the county, will be permitted. The court will expedite the hearing of the case. Its judgment, except with respect to any matter raised under subsection (a)(5), shall be either:

- (1) that the annexation shall take place;
- (2) that the annexation shall not take place; or
- (3) that the remonstrance shall be dismissed.

(f) In the event the court finds that the remonstrators have proved the reasons for the remonstrance described in any one (1) of the first four (4) numbered reasons for remonstrance under subsection (a), its judgment shall be that the annexation shall not take place; unless they have proved one of such four (4) numbered reasons, its judgment shall be that the annexation shall take place. With respect to any matter raised under subsection (a)(5), its judgment may be either that the disposition, allocation, and amount set out in the annexing resolution are equitable or that they are inequitable. In the latter event the court in its judgment shall provide for an equitable disposition, allocation, and amount. Costs shall follow judgment. Appeals may be taken from any judgment of the court in the same manner as appeals are taken in other civil cases.

(Formerly: Acts 1961, c.186, s.6.) As amended by P.L.2-1988, SEC.456.

IC 20-3-14-7

Equitable disposition of assets and liabilities of losing school corporations; standards

Sec. 7. With respect to whether the disposition of the assets and liabilities of the losing school corporation, allocation of school tax receipts, and the amount to be paid by the acquiring school corporation is equitable, the court shall be satisfied that the annexing resolution conforms substantially to the following standards:

(a) The acquiring school corporation shall assume a portion of all installments of principal and interest on any indebtedness of the losing school corporation (other than current obligations or temporary borrowing) which fall due after the end of the last calendar year in which the losing school corporation is entitled to receive current tax receipts from property tax levies on the property on the annexed territory. Such portion shall consist of the following:

(1) All such installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the annexed territory.

(2) A proportion of all such installments relating to any other indebtedness which is the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the losing school corporation, as the same is assessed for general taxation immediately prior to annexation.

(b) The acquiring school corporation shall make the payments and assume the obligations provided for a school corporation acquiring territory and/or building or buildings under IC 21-5-10.

(c) Unless the losing school corporation shall consent to some other allocation, the portion of the special school and tuition fund moneys collected by the losing school corporation shall not be allocated in a greater amount to the acquiring school corporation than would be awarded if such two (2) corporations were respectively the original school corporation and the annexing school corporation within the meaning of IC 20-4-16, and the amount to be paid the losing corporation by the acquiring school corporation on account of the acquisition by the acquiring school corporation of a building in the annexed territory shall not be less than would be awarded if such two (2) school corporations were respectively the acquiring corporation and original school corporation within the meaning of IC 20-4-15.

(d) Where the annexed territory includes all of any losing school corporation, the acquiring school corporation shall acquire all of the property and assets of the losing school corporation without making payment of any nature for the same and shall assume all of the liabilities and obligations of the losing school corporation.

(Formerly: Acts 1961, c.186, s.7.) As amended by P.L.2-1988, SEC.457.

IC 20-3-14-8

Effective date of annexation

Sec. 8. (a) In the event any remonstrance is filed on any ground other than that set forth in section 6(a)(5) of this chapter, annexation shall not become effective until final judgment in the remonstrance suit. Judgment shall not be considered to be final until the time for taking an appeal has expired, or, if an appeal is taken within such time, until final judgment in the appeal. A judgment of the trial court dismissing a remonstrance shall be considered to be a final judgment, subject to the provisions of the preceding sentence. In the event such judgment is against the annexation, no further annexation of the annexed territory may take place for a period of two (2) years from the date such remonstrance was filed. This shall not, however, prevent either the acquiring or the acquiring and losing school corporations from rescinding the annexation resolution, and in such event the suit shall be dismissed without prejudice. In such latter event such two (2) year prohibition shall not apply unless a

subsequent annexation resolution is adopted primarily for the purpose of harassment and not for some other purpose, such as the correction of procedural irregularities or a substantial change in the annexed territory and/or the annexation resolution.

(b) Where the remonstrance relates solely to any matter raised under section 6(a)(5) of this chapter, the annexation shall take effect at the time provided under sections 3 or 4 of this chapter.

(Formerly: Acts 1961, c.186, s.8.) As amended by P.L.2-1988, SEC.458.

IC 20-3-14-9

Boundaries of school city or school town; application of chapter

Sec. 9. Notwithstanding any statute which provides in substance that the boundaries of any school city or school town are coterminous or coextensive with the boundaries of any civil city or civil town, the boundaries of a school city (as such term is defined in this chapter) shall be changed after March 8, 1961, solely by an annexation in accordance with the terms of this chapter in effect at the time such annexation is effective or finally effective.

(Formerly: Acts 1961, c.186, s.9a; Acts 1969, c.52, s.3.) As amended by P.L.2-1988, SEC.459.

IC 20-3-14-10

Repeal of conflicting laws; supplemental effect of chapter

Sec. 10. All laws or parts of laws in conflict with this chapter are hereby repealed. This chapter shall not, however, be construed to repeal IC 20-4-1 or any statute concerning the consolidation of two (2) or more school corporations to which this chapter shall be supplementary, except to the extent that IC 20-4-1 conflicts with the subsequent provisions of this section. No annexation that is undertaken pursuant to, or that results by operation of, any section of this chapter shall require, for its effectiveness, any approval of any county committee or state commission or committee created pursuant to, or referred to in, IC 20-4-1. The provisions of Acts 1961, c.186, s.9, with respect to any annexation which is finally effective prior to February 25, 1969, shall operate after March 8, 1961, both before and after a final plan has been put into effect by election, petition, or other proceeding under the provisions of IC 20-4-1 or any other statute concerning the consolidation of two (2) or more school corporations.

(Formerly: Acts 1961, c.186, s.10; Acts 1969, c.52, s.4.) As amended by P.L.2-1988, SEC.460.

IC 20-3-14-11

Repeal of certain act

Sec. 11. Acts 1961, c.186, s.9 is repealed as to all annexations which have not become effective or finally effective prior to February 25, 1969.

(Formerly: Acts 1969, c.52, s.2.) As amended by P.L.2-1988, SEC.461.

